disturb the finding of the Board that the respondents are a trade association.

It follows that the Comptroller's assessment is confirmed and the Board's majority finding set aside. The respondents will pay the appellant taxed costs here and before the Board.

Appeal allowed.

Solicitors: *Drew & Napier.*

ANG TOON HUAN v. PUBLIC PROSECUTOR

[C. A. (Mathew C.J., Whyatt C.J. (S) and Good J.) April 26, 1956]

[K. L. — F.M. Criminal Reference No. 2 of 1956]

Rubber Supervision Enactment, 1937, s. 38(ii) — Prosecution under the Enactment may be conducted by police officer — Criminal Procedure Code (Cap. 6), s. 380(ii).

This was a reference under section 34 of the Courts Ordinance, 1948, for determination by the Court of Appeal: "Whether when a prosecution for an offence under the Rubber Supervision Enactment, 1937 is conducted by an officer other than one of those mentioned in section 38(ii) of the said Enactment the trial is a nullity.

Held: section 38(ii) of the Rubber Supervision Enactment, 1937 is supplementary to section 380 of the Criminal Procedure Code (Cap. 6), and permits of offences under the Enactment being prosecuted by the officers mentioned in section 38(ii) in addition to *inter alia* police officers who are given the necessary power to prosecute under section 380 of the Criminal Procedure Code.

Selamat bin Darmo v. Public Prosecutor[1] **overruled.**

Case referred to:—

(1) *Selamat bin Darmo v. Public Prosecutor* (1955) M.L.J. 241.

CRIMINAL REFERENCE to the Court of Appeal.

M. S. Mahendran for the appellant.

J. G. Adams (Federal Counsel) for the respondent.

Mathew C.J. : — This is a Reference under section 34 of the Courts Ordinance 1948 on the certificate of the learned Judge who heard the appeal from the decision of a Magistrate sitting at Kuala Kangsar. The point for determination by this Court is:—

"Whether when a prosecution for an offence under the Rubber Supervision Enactment, 1937 is conducted by an officer other than one of those mentioned in section 38(ii) of the said Enactment the trial is a nullity."

This point has rightly been referred to this Court, as in *Selamat bin Darmo v. Public Prosecutor*[1] Wilson J. held that:—

"All prosecutions under the Rubber Supervision Enactment must be conducted by the Supervisor or Deputy Supervisor or by any officer appointed under the Enactment and specially authorised to prosecute in writing by the Supervisor or Deputy Supervisor."

Section 38(ii) Rubber Supervision Enactment 1937 reads:—

"Any such prosecution may be conducted by the Supervisor, by any Deputy Supervisor or by any officer appointed under this Enactment and specially authorised thereto in writing by the Supervisor or a Deputy Supervisor."

It was submitted that this provision in the law confined the power to prosecute to those Rubber Supervision Officers specified in the sub-section.

Section 380(ii) Criminal Procedure Code reads:—

"In summary non-seizable cases in the Court of a Magistrate — (a) The Public Prosecutor or a Deputy Public Prosecutor or a Police Officer may appear and conduct any prosecution;"

In the case under review it was a police officer who prosecuted before the learned trial Magistrate.

In our view, section 38(ii) of the Rubber Supervision Enactment, 1937 is supplementary to section 380 of the Criminal Procedure Code, and permits of offences under the Enactment being prosecuted by the officers mentioned in section 38(ii) in addition to *inter alia* police officers who are given the necessary power to prosecute under section 380 of the Criminal Procedure Code

We, therefore, hold that the prosecution in this case was rightly conducted by a police officer and, in consequence, the appeal from the trial Magistrate is dismissed.

Order accordingly.

ANKUR NATH GANGULI v. PUBLIC PROSECUTOR

[C. A. (Mathew C.J., Whyatt C.J. (S) and Good J.) May 30, 1956]

[K. L. — F.M. Criminal Appeal No. 11 of 1956]

Criminal Procedure — Appeal — Record of proceedings — Oral judgment — Addition to — Whether can form part of the record — Courts Ordinance, 1948, s. 21(1).

If a trial Judge gives no reasons which are recorded for convicting an accused person, then and only then by subsection (1) of section 21 of the Courts Ordinance, 1948, he can on notice of appeal being given write his grounds of decision which shall form part of the record. That subsection permits only a written judgment or grounds of decision being included in the record, and this must be either the one or the other, not both. Any addition to the oral judgment cannot form part of the record of appeal.

Case referred to:—

(1) *R. v. Carr-Briant* (1943) 1 K.B. 607.

CRIMINAL APPEAL to the Court of Appeal.

K. A. Seth for the appellant.

J. G. Adams (Federal Counsel) for the respondent.